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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,964	11/02/2001	Franz Forster	964-011766	4446

7590 08/11/2004

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,964

Applicant(s)

FORSTER, FRANZ

Examiner

Devon C Kramer

Art Unit

3683

MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-9 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2) Claims 1-2 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Forster (DE 19854415).

In re claim 1, Forster provides a hydrostatic axial piston machine, comprising: a swashplate (1); a cylinder block (5); a cylinder block bearing assembly (3a, 3b); a brake (16) configured to arrest the cylinder block; and a compensation device (14) configured to at least partially relieve the cylinder block bearing system from axial engine forces, wherein the compensation device is integrated into the brake. Please note that when the bearing block moves to the right in figure 1, the spring, which is directly connected to the bearing block, partially absorbs some of the axial force.

In re claim 2, Forster provides a brake piston (15) that is loaded by the spring (14) in a closing direction of the brake; and wherein the brake piston has a relieving surface (portion with the fluid receiving surface) which can be pressurized by hydraulic pressure and acts in an opening direction of the brake and is effective opposite to the axial engine forces.

In re claims 5 and 8, Forster provides the axial piston machine located in a hub drive (figure 1), wherein the housing forms a stationary hub carrier, the cylinder block

forms a rotating hub, and the cylinder block bearing system forms a hub bearing system. (figure 1)

In re claim 6, Forster provides a wheel fastening flange (5a) and a rim-centering device (5b).

In re claims 7 and 9, Forster provides an arrangement where the swashplate is located and oriented such that radial engine forces under operating conditions are active opposite to the forces acting from outside on the cylinder block bearing system. Please note that the swash plate of the Forster reference has the same configuration as that of the instant application.

Claim Rejections - 35 USC § 103

3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4) Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forster (DE 19854415) in view of White (6145635).

In re claim 4, Forster teaches a multi-disk brake, but lacks the teaching of a wet multi-disk brake.

White teaches a wet multi-disk brake (col. 5 lines 20-21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the brake of Forster with a wet brake as taught by White in order to keep the brake cool during operation.

Allowable Subject Matter

5) Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Forster (DE '136, DE '697, DE '334, US '123, US '340, US '122) all provide axial piston motors with similar features to the instant application.

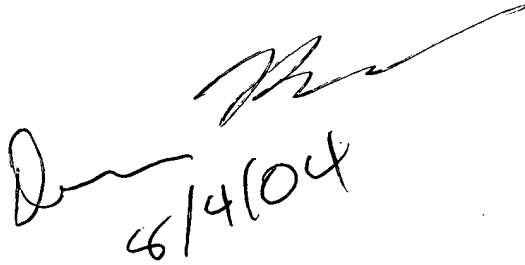
7) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DK



Handwritten signature and date: 6/4/04